



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2011 Biennium

<b>Bill #</b>	HB0447	<b>Title:</b>	Revise opencut mining laws
<b>Primary Sponsor:</b>	Pomnichowski, JP	<b>Status:</b>	As Introduced

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2  | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### **FISCAL SUMMARY**

	<b><u>FY 2010 Difference</u></b>	<b><u>FY 2011 Difference</u></b>	<b><u>FY 2012 Difference</u></b>	<b><u>FY 2013 Difference</u></b>
<b>Expenditures:</b>				
General Fund	\$166,269	\$210,567	\$215,832	\$225,639
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>(\$166,269)</u>	<u>(\$210,567)</u>	<u>(\$215,832)</u>	<u>(\$225,639)</u>

### **Description of fiscal impact:**

This bill would require that the plans of operation of all private-sector opencut mining permits be reviewed and site inspections of these operations be conducted by the Department of Environmental Quality (DEQ) once every five years. Implementing this additional activity would require the equivalent of 2.50 FTE.

### **FISCAL ANALYSIS**

#### **Assumptions:**

1. This bill would require that each private-sector opencut mining permit be reviewed once every five years from the date of initial permit or last amendment. It would also require that each mine site associated with each permit be inspected as part of the permit review. Since the bill's effective date would be October 1, 2009, it is estimated that for FY 2010, this additional activity would consist of reviewing and inspecting approximately 150 plans of operation and conducting 150 inspections on the associated sites. For FY 2011, 2012, and 2013, the additional activity would consist of reviewing and inspecting approximately 200 plans of operation per fiscal year and conducting 200 inspections per fiscal year on the associated sites.
2. The bill requires that, if a violation is observed at a five-year inspection, DEQ must give a 30-day notice and order mining to cease.

3. All of the above would require 2.00 FTE environmental specialists and a 0.50 FTE administrative assistant. Since the bill's effective date would be October 1, 2009, the additional staff would be hired at that time. Personal services (salaries and benefits) costs would be: \$92,810 in FY 2010, \$123,747 in FY 2011, \$126,840 in FY 2012, and \$130,011 in FY 2013. Operating expenses would be \$73,459 in FY 2010, \$86,820 in FY 2011, \$88,992 in FY 2012, and \$95,628 in FY 2013, which includes supplies, travel, communications, education/training, contracts, and agency indirect costs. There is a 2.5% inflation factor applied to FY 2011-2013. Also, operating costs are higher in FY 2011-2013 due to increased travel for a whole year. Operating costs in FY 2010 and FY 2013 are higher due to office set up and computer costs. All funding would need to be provided by the general fund.
4. The bill also requires that "[at] the time of the inspection, at least 25% of the permitted acreage must be under reclamation". Since this would be a new performance standard, it is assumed that this standard would only be effective on permits or amendments issued after October 1, 2009, and therefore, would have no fiscal impact during the next two biennia.

	<b><u>FY 2010 Difference</u></b>	<b><u>FY 2011 Difference</u></b>	<b><u>FY 2012 Difference</u></b>	<b><u>FY 2013 Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
<b>FTE</b>	1.88	2.50	2.50	2.50
<b><u>Expenditures:</u></b>				
Personal Services	\$92,810	\$123,747	\$126,840	\$130,011
Operating Expenses	\$73,459	\$86,820	\$88,992	\$95,628
<b>TOTAL Expenditures</b>	<b>\$166,269</b>	<b>\$210,567</b>	<b>\$215,832</b>	<b>\$225,639</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$166,269	\$210,567	\$215,832	\$225,639
<b>TOTAL Funding of Exp.</b>	<b>\$166,269</b>	<b>\$210,567</b>	<b>\$215,832</b>	<b>\$225,639</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$166,269)	(\$210,567)	(\$215,832)	(\$225,639)

**Long-Term Impacts:**

1. HB 447's requirement that "[at] the time of the inspection, at least 25% of the permitted acreage must be under reclamation," would be applicable to permits and amendments issued after October 1, 2009 and would become a performance standard for those permits and amendments. Determining compliance with this standard and any follow-up paper work and activities such as enforcement actions regarding this standard could result in additional DEQ workload and thus fiscal impacts in the years following the next two biennia.
2. The additional requirement in 82-4-432(5), MCA, line 5 of page 3, "...that an amendment may not propose an expansion of the currently permitted acreage by more than 50%", may result in DEQ receiving several amended applications on the same operation over a given period of time, instead of just a few, increasing necessary amendment processing and DEQ's workload on the same site. Also, an operator who takes over a permitted site from another operator and then would like, but is unable with this

restriction, to expand the operation more than 50% may decide it is more expedient to submit an application for a new adjacent site at the desirable size, instead of taking over and trying to expand the existing site.

**Technical Notes:**

1. It is unclear how the bill affects existing permits. Addition of an applicability section would remove any uncertainty as to the applicability and implementation of these provisions.
2. Section 1(4) provides that the department may sue for damages for violation of permit conditions. It is unclear what damages the department would suffer and could recover as a result of a permit violation.
3. Section 1(4) requires the department to require cessation of mining for any violation of the plan of operation. It is not clear whether the cessation is to be permanent or temporary.

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*Sponsor's Initials*

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*Date*

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*Budget Director's Initials*

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*Date*